

REMARKS

A petition to revive the current application is provided herewith, and a power of attorney and revocation of prior powers. Please note the request to change the correspondence address.

Claim 25 was rejected under 35 U.S.C. § 112, second paragraph. The claim has been corrected by correcting claim dependency.

Claims 1-3, 6-11, 17-18, 28 and 29 were rejected under 35 U.S.C. § 102(e) by U.S. Application No. 2002/0134498 to Pennino et al. ("Pennino"). Claims 13-14 were rejected under 35 U.S.C. § 103(a) in view of Pennino. Claims 20-27, 28, 30, and 32-36 were rejected under 35 U.S.C. § 103(a) in view of Pennino combined with U.S. Patent No. 5,015,324 to Goodwin ("Goodwin"). Claims 1-3, 6-14, 17-18, 20-30 and 32-36 were rejected under 35 U.S.C. § 103(a) by Pennino in combination with Goodwin. Claims 4 and 19 were rejected under 35 U.S.C. § 103(a) by Pennino or, Pennino in combination with Goodwin, or Pennino and Goodwin in combination with U.S. Patent No. 5,111,216 to Richardson ("Richardson"). Claim 5 was rejected under 35 U.S.C. § 103(a) by Pennino or, Pennino in combination with Goodwin, or Pennino and Goodwin in combination with U.S. Patent No. 5,363,227 to Ichikawa ("Ichikawa"). Claim 7 was rejected under 35 U.S.C. § 103(a) by Pennino or Pennino and Goodwin in combination with Horowitz and Hill. Claims 15, 16 and 30 were rejected under 35 U.S.C. § 103(a) by Pennino or, Pennino in combination with Goodwin in combination with U.S. Patent No. 4,668,326 to Mystyurik ("Mystyurik"). Claims 27, 32, and 36 were rejected under 35 U.S.C. § 103(a) by Pennino or, Pennino in combination with Goodwin in combination with U.S. Patent No. 6,085,618 to Takizawa ("Takizawa").

As a preliminary note, claims 29-36 are canceled herein. Amendments have been made to independent Claim 1 to clarify the invention. The claim now set out an arrangement of components not shown or suggested in any of the prior art taken alone or in combination.

Specifically, the invention is directed to a labeler. The labeler has a housing, which is of a size as to be held in-hand. The housing defines an interior chamber divided by a center plate. The center plate with the housing defines a front interior sub-chamber in which a controller, input device(s), and a display device are disposed, and 2) a rear interior sub-chamber in which a label roll, an electrical source, a printing device, and a transport device are disposed. At least this configuration of elements in Claim 1 of the present invention appears to be novel and unobvious. The display device is viewable through a display hole through the housing. Each of the one or more input devices is accessible by a user through respective input device holes through the housing. The label strip is passable outwardly from within the housing through a label outlet slot extending through the housing.

Claims 1-3, 6-11, 17-18, 28 and 29 were rejected under 35 U.S.C. § 102(e) by U.S. Application No. 2002/0134498 to Pennino et al. ("Pennino"). Claims 13-14 were rejected under 35 U.S.C. § 103(a) in view of Pennino. In contrast to the presently claimed invention, Pennino shows at least a side by side configuration, with a display and button on a left side and a cover for a print cartridge on a right side of the device. Batteries are insertable through a back side door (See Fig. 10). Since Pennino does not show the configuration of elements of independent Claim 1, Pennino cannot anticipate either Claim 1 or any of the claims which depend therefrom. Similarly, there is no suggestion in Pennino to arrange any of its elements in the configuration set out in present Claim 1. Thus, Pennino cannot render any of the claims obvious, because there

is no *prima facie* case of obviousness, nor is there any suggestion to make any modifications to Pennino to arrive at the presently claimed invention.

Claims 20-27, 28, 30, and 32-36 were rejected under 35 U.S.C. § 103(a) in view of Pennino combined with U.S. Patent No. 5,015,324 to Goodwin ("Goodwin"). Claims 1-3, 6-14, 17-18, 20-30 and 32-36 were rejected under 35 U.S.C. § 103(a) by Pennino in combination with Goodwin. Goodwin, which is used in combination with Pennino and various other references, fails to provide the deficiencies of Pennino. Goodwin is directed to a large, bulky, commercial hand-held labeler with separate transport (39) and printing mechanisms (45). All of the Goodwin components appear to be contained within one central compartment. The intended use of the Goodwin device requires large and robust elements and thus, no attempt is made to save space or combine elements for presenting a small overall device. Thus, Goodwin teaches away combination with a small labeler and does not teach or suggest the combination of elements and configuration of elements of the present invention. Furthermore, even if combined, Pennino and Goodwin do not show or suggest the present configuration of elements as recited in present Claim 1. For at least these reasons, Pennino and Goodwin combined, therefore, do not teach or suggest the presently claimed invention and cannot render the present claims obvious.

Claims 4 and 19 were rejected under 35 U.S.C. § 103(a) by Pennino or, Pennino in combination with Goodwin, or Pennino and Goodwin in combination with U.S. Patent No. 5,111,216 to Richardson ("Richardson"). Richardson does not supply the deficiencies of Pennino and Goodwin. Richardson is a tape supply cartridge for a portable thermal printer. The cartridge is designed for enabling advancement of the tape by manually pulling the tape past a print head or sliding the bottom edge of the device over a flat surface. The examiner asserts that

the teaching of Richardson would suggest putting all components within a single housing. However, Richardson is only a cartridge for a printer, and as shown in Figure 1, suggests a completely separate housing for the printer device itself. So, Richardson, clearly does not suggest a single housing for all of the elements recited in present Claim 1, for example, and in fact teaches away from the claimed configuration. Since Richardson contemplates only manual actuation of the tape, there is no suggestion to combine Richardson with a motor transport. Thus, there is no suggestion to combine Richardson with any of the motor driven art cited in the action and teaches away from a single housing, especially one with the claimed configuration. Thus, Richardson does not supply the deficiencies of Pennino and Goodwin, which do not teach or suggest the configuration of elements recited in Claim 1, and therefore required in all of the dependent claims. For at least these reasons, Pennino and Goodwin and Richardson cannot render the present claims obvious.

Claim 5 was rejected under 35 U.S.C. § 103(a) by Pennino or, Pennino in combination with Goodwin, or Pennino and Goodwin in combination with U.S. Patent No. 5,363,227 to Ichikawa ("Ichikawa"). Pennino and Goodwin are distinguished above. Ichikawa is merely a structure for mounting a liquid crystal display. So, Ichikawa does not teach or suggest the configuration of elements recited in Claim 1, and therefore required in all of the dependent claims, and thus Ichikawa does not supply the deficiencies of Pennino and Goodwin.

Claim 7 was rejected under 35 U.S.C. § 103(a) by Pennino or Pennino and Goodwin in combination with Horowitz and Hill. Pennino and Goodwin are distinguished above. Horowitz and Hill are directed to memory means and thus, do not supply the deficiencies of Pennino and Goodwin.

Claims 15, 16 and 30 were rejected under 35 U.S.C. § 103(a) by Pennino or, Pennino in combination with Goodwin in combination with U.S. Patent No. 4,668,326 to Mystyurik ("Mystyurik"). Mystyurik address a mount for a label roll. However, Mystyurik does not teach or suggest the configuration of elements recited in Claim 1, and thus does not supply the deficiencies of Pennino and Goodwin.


Claims 27, 32, and 36 were rejected under 35 U.S.C. § 103(a) by Pennino or, Pennino in combination with Goodwin in combination with U.S. Patent No. 6,085,618 to Takizawa ("Takizawa"). Takizawa is directed to detection of perforations in a label. However, Takizawa does not teach or suggest the configuration of elements recited in Claim 1, and thus does not supply the deficiencies of Pennino and Goodwin.

None of the cited prior art teaches or suggests this configuration of elements. Therefore, none of the cited art anticipates when taken alone or renders obvious, when taken alone or combined, Claim 1. Since Claim 1 is not anticipated or rendered obvious, none of the claims which depend therefrom are anticipated or rendered obvious. Reconsideration is respectfully requested.

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BANIAK, PINE & GANNON
150 N. Wacker Drive, Suite 1200
Chicago, Illinois 60606
(312) 673-0360 Telephone
(312) 673-0361 Facsimile

Respectfully submitted,



Michael D. Gannon, Reg. No. 36,807
Attorney for Applicant(s)
Steven B. Courtright, Reg. No. 40,966
Agent for Applicant(s)